

**BID OPENING**

March 22, 2005- Picnic Shelter at Town Park  
6:45 p.m.

Dan Gabalski 71 Griffin Lane Elma, New York 14059	\$ 8,855.00
Cross Roads Development 620 Stolle Road Elma, New York	\$ 9,965.00
Katilus Construction Co. 200 Pound Road Elma, New York 14059	\$11,900.00
DDM Building Systems Inc. 3681 Bullis Road Elma, New York 14059	\$12,850.00
R & R Precision Construction, Inc. 558 Werner Road Attica, New York 14011	\$13,200.00 \$ 4,680.00 (concrete extra)
Wilsandra Constructin Co., Inc. 300 Camden Avenue Buffalo, New York 14216	\$15,586.00
Orologio Builders 1975 Route 238 Warsaw, New York 14569	\$16,192.00
C. Nichter, Inc. 30 Wildwood Drive Lancaster, New York 14086	\$16,400.00
Peyton Barlow Co. 360 Delaware Avenue Buffalo, New York 14202	\$18,745.00
Consolidated Building Contractors 7380 State Road West Falls, New York 14170	\$22,475.00

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Public Hearing  
March 29, 2005

A Public Hearing was held March 29, 2005 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. The purpose of the hearing was to make changes to the Zoning Law of the Town of Marilla with respect to flag lots. Supervisor Foss stated that some residents have shown concern over certain items in the proposed zoning changes for the flag lots. The Town Board has decided to put a 6 month moratorium on flag lots to give the Planning Board time to make changes and then the Town Board will hold another public hearing. The Town Clerk presented affidavits showing that certified copies of the Order Calling a Public Hearing had been published in the Alden Advertiser, the Elma Review and East Aurora Advertiser as well as posting it on the Official Bulletin Board pursuant to the provisions of the Town Law.

Officials present were:

John R. Foss, Supervisor  
Barbara Spanitz, Councilman  
Fred Specht, Councilman  
George Gertz, Councilman  
Warren Handley, Councilman

Approximately (34) persons were in attendance. Supervisor Foss asked if there was any interested person who desired to be heard.

Robert Breidenstein of Greenwood Terrace asked when this would be in effect?

Supervisor Foss stated that it was in effect March 10<sup>th</sup> unless someone could show hardship.

Edward Riedel of Greenwood Terrace stated he thinks it is redundant to have a hardship clause.

Terry Dare of Greenwood Terrace asked what would deem a hardship?

Supervisor Foss responded someone would have to prove a serious situation to show hardship.

Robert Breidenstein of Greenwood Terrace asked if it would be posted if a flag lot was permitted under the hardship clause?

Supervisor Foss stated we have never had a hardship come up before with other moratoriums, he wasn't sure what the procedures would be.

Rick Snyder of Eldridge Road asked what was the problem with the existing law?

Supervisor Foss responded identifying prime farmland and what constitutes a subdivision, a main concern is not allowing this to be used for development purposes.

Rick Snyder asked if land not being farmed is more acceptable for flag lots?

Edward Riedel of Greenwood Terrace asked is it prime farmland if it has the potential to be farmed.

Walter Schmidt of Clinton Street stated that there is good and bad farmland, under this building is prime farmland. He believes what we have in place should be left alone. He feels it isn't fair that the Town allows prime farmland to become a golf course.

Supervisor Foss stated that a golf course can go into either A or RR zoning. If a golf course fails it can be reused as farmland.

Robert Jagord of Two Rod Road stated he is in favor of leaving the code the way it is. It should be the home owners choice for how far back off the road they wish to build and they take responsibility for the fire protection.

Supervisor Foss stated that they have had a lot of comment against the 800 ft set back change and the soil class I, II, III, IV, the Planning Board will have to take a look at these issues.

Everett Hoffman asked why the Town Board felt the need for change when there were only 4 flag lots in the past 5 years?

Supervisor Foss stated that some Board members and residents were concerned we may have a rash of them.

Mr. Hoffman stated that he been clearing a flag lot for himself from his mother's property that isn't being farmed but is probably prime farmland. He was going to have it split this year now he's concerned he can't and he wondered if his case would be considered a hardship.

Supervisor Foss stated that we hope to have the new regulation for flag lots done in June or July, this shouldn't prevent anyone from splitting off property this year.

Chris Tait asked why fellow residents are concerned about flag lots? He feels America was built on freedom and can't understand why people want to implement more rules.

Edward Riedel of Greenwood Terrace stated that growth can have a negative effect on taxation. In Marilla taxation is low and he feels it's their constitutional right to keep the area from development. He feels flag lots should be given only to family members.

Supervisor Foss stated that he felt this Board has done a good job controlling growth.

Terry Dare from Greenwood Terrace explained it's the fear of having houses built in your backyard looking at your house. The land has been prime farmland for 30 years and she would like to see it stay that way.

Supervisor Foss stated that Land Owners have rights too.

Rick Snyder of Eldridge Road stated that he feels its going to be a fine line to tell people that this land is prime farmland and this is not. You can interpret it one way for one person and another for someone else. This Town is growing very slowly. When our grandchildren need a place to live the road frontage will be all gone.

Chris Tait stated that no matter what, some ones rights will be diminished. He stated he would like to stay in Marilla. He would like to build here and feels the Board sounds unsympathetic.

Supervisor Foss replied he should come and see the Building Inspector.

Hearing no further comments from those in attendance, the hearing was closed at 8:06 p.m.

Respectfully Submitted,

\_\_\_\_\_, Town Clerk

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Special Meeting  
March 29, 2005

A Special Meeting of the Marilla Town Board was held Tuesday March 29<sup>th</sup>, 2005 at 8:08 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Official present were:

John R. Foss, Supervisor  
Barbara Spanitz, Councilman  
Fred Specht, Councilman  
George Gertz, Councilman  
Warren Handley, Councilman

Supervisor Foss called the meeting to order.

Motion: Councilman Specht moved, seconded by Councilman Handley to approve the following resolution adopting determination of non-significance of Local Law:

WHEREAS, the Town Board of the Town of Marilla is considering adoption of a Local Law placing a six month moratorium on the approval of flag lots and has determined that such action is Type II action under SEQRA and therefore no other action is required

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Marilla, after considering the action proposed herein, in reviewing the criteria contained in Section 617.11 of the Rules and Regulations of the SEQRA Regulations and thoroughly analyzing the project with respect to potential environmental concerns, determines that the action will not have a significant effect on the environment and that no further action is required by the Town of Marilla.

Roll Call Vote:

Councilman Spanitz: Aye

Councilman Gertz: Aye

Supervisor Foss: Aye

Motion Carried.

Councilman Specht: Aye

Councilman Handley: Aye

Motion: Councilman Specht moved, seconded by Councilman Handley to approve the following resolution for local law No. 1 of year 2005:

A Local Law known as Local Law No. 1 of the Year 2005 entitled "Amendment to the Code of the Town of Marilla Placing a Six Month Moratorium on the Approval of Flag Lots Within the Town".

Be in enacted by the Town Board of the Town of Marilla as follows:

#### SECTION 1. TITLE

This Law shall be known as Local Law No. 1 of the Year 2005 entitled "Amendment to the Code of the Town of Marilla Placing a Six Month Moratorium on the Approval of Flag Lots Within the Town".

#### SECTION 2. PURPOSE

The purpose of this local law is to amend the Code to place a six month moratorium on the granting of approvals for the development of flag lots within the Town to allow the Town Planning Board and the Town Board to formulate proposed changes to the Zoning Law of the Town of Marilla including the imposition of limitations on the development of flag lots to ensure that such flag lots are developed in a manner consistent with good development principles and with the Comprehensive Plan of the Town of Marilla.

#### SECTION 3. AMENDMENT OF PRIOR LAW

Chapter 210 of the Code of the Town of Marilla adopted on March 11, 1999 by Local Law No. 1 of the Year 1999 and amended on May 11, 2000 by Local Law No. 1 of the Year 2000 is further amended as follows:

Section 210-11 A. (3) (a) is amended to add an additional subparagraph

[8] which shall read as follows:

[8] “For the period commencing on the effective date of this local law and for six months thereafter or until such earlier date as the Town Board adopts changes to its Zoning Law dealing with the development of building lots on private driveways, the Town of Marilla shall not consider any new applications for the granting of approvals of building lots on private driveways. The Town of Marilla will continue the processing of applications for such approvals with respect to complete applications that were submitted to the Town of Marilla prior to March 10, 2005. For purposes of this Local Law an application shall not be deemed a complete application unless all items required for approval have been received by the Town of Marilla prior to March 10, 2005.”

“Notwithstanding the foregoing provision, an applicant for approval of up to two building lots on a private road on a parcel where no other divisions have taken place within the last five years, may request relief from the moratorium based upon undue hardship. The Town Board will consider such request on a case by case basis. If relief is granted, as a condition of such relief from the six month moratorium, the applicant will have to agree to comply with any new requirements that may be imposed on building lots developed on private roads as a result of the Town’s review of the Code provisions.”

Section 210-26 A. (3) is amended to add the following as two additional subparagraphs which shall read as follows:

“For the period commencing on the effective date of this local law and for six months thereafter or until such earlier date as the Town Board adopts changes to its Zoning Law dealing with the development of building lots on private driveways, the Town of Marilla shall not consider any new applications for the granting of approvals of building lots on private driveways. The Town of Marilla will continue the processing of applications for such approvals with respect to complete applications that were submitted to the Town of Marilla prior to March 10, 2005. For purposes of this Local Law an application shall not be deemed a complete application unless all items required for approval have been received by the Town of Marilla prior to March 10, 2005.”

“Notwithstanding the foregoing provision, an applicant for approval of up to two building lots on a private road on a parcel where no other divisions have taken place within the last five years, may request relief from the moratorium based upon undue hardship. The Town Board will consider such request on a case by case basis. If relief is granted, as a condition of such relief from the six month moratorium, the applicant will have to agree to comply with any new requirements that may be imposed on building lots developed on private roads as a result of the Town’s review of the Code provisions.”

#### SECTION 4. SEVERABILITY

If any portion, subsection, sentence, clause, phrase or portion thereof this local law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not effect the validity of the remaining portion thereof.

#### SECTION 5. WHEN EFFECTIVE

This Local Law shall become effective immediately upon its filing in the office of the Secretary of State.

Councilman Specht stated that he is in favor of slow growth and flag lots should not be used for developmental purposes.

Supervisor Foss stated that Mr. Schlossin wanting to put flag lots side by side up on Three Rod Road sparked the Town taking a look at the law.

Councilman Handley stated that flag lots should be put in their proper place and not used as a developmental tool. If we keep allowing road frontage to be developed Marilla will lose its rural character.

Roll Call Vote:

Councilman Spanitz: Aye

Councilman Specht: Aye

Councilman Gertz: Aye

Councilman Handley: Aye

Supervisor Foss: Aye

Motion Carried.

Motion: Councilman Gertz moved, seconded by Councilman Spanitz to approve Dan Gabalski, located at 71 Griffin Lane, Elma, NY as the low bidder for the new Park Shelter at a cost of \$ 8,855.00. Motion Carried.

Motion: Councilman Specht moved, seconded by Councilman Spanitz to adjourn the meeting at 8:15 p.m. Motion Carried.

Respectfully submitted,

\_\_\_\_\_, Town Clerk